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LETTER DATED 24 DECEMBER 1998 FROM THE CHARGÉ D'AFFAIRES A.I. OF THE PERMANENT MISSION OF YUGOSLAVIA TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to forward a letter dated 24 December 1998 from Momir Bulatovic, President of the Federal Government of the Federal Republic of Yugoslavia, addressed to you (see annex I), and a memorandum on the negotiating position of the Federal Republic of Yugoslavia in connection with the region of Prevlaka and the preservation of the security system of the United Nations (see annex II).

I should be very grateful if you would have the present letter and its annexes published as a document of the Security Council.

(Signed) Vladislav JOVANOVIC
Chargé d'affaires a.i.

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Annex I

Letter dated 24 December 1998 from the President of the Federal Government of the Federal Republic of Yugoslavia addressed to the President of the Security Council

The Federal Government of the Federal Republic of Yugoslavia has always attached enormous importance to the presence of United Nations military observers in Prevlaka and their basic function of preserving the original security system of the United Nations in the disputed area of Prevlaka until a lasting solution has been found.

I am addressing you on behalf of the Federal Government of the Federal Republic of Yugoslavia with a request that the Security Council of the United Nations extend the mandate of the United Nations Mission of Observers in Prevlaka (UNMOP) beyond 15 January 1999 for an additional period of six months.

The negotiations of the two sides have entered a new phase, first by the meeting of the Ministers for Foreign Affairs of the Federal Republic of Yugoslavia and the Republic of Croatia at Zagreb on 18 August 1998, and then at the meetings of negotiating teams of the two countries at Zagreb on 16 September 1998, at Belgrade on 9 October 1998 and at Zagreb on 23 December 1998. A note on the negotiating position of the Federal Republic of Yugoslavia on the delimitation line in and the solutions relevant to the disputed territorial issue of Prevlaka and the arguments of the Federal Republic of Yugoslavia are contained in a separate memorandum (see annex II).

The creation and maintenance of an atmosphere which encourages the negotiating process is of enormous importance to the quest for a lasting solution. Considering that in the realization of that goal, great responsibility lies on both interested parties, the Federal Government of the Federal Republic of Yugoslavia expects the Security Council to dissuade the Republic of Croatia from taking unlawful acts in the Bay of Boka Kotorska and the disputed territory of Prevlaka, and to persuade it to respect absolutely the regime and borders of the "Blue" and "Yellow" zones of the United Nations so as to give the negotiating process an atmosphere of confidence.

The Federal Government of the Federal Republic of Yugoslavia wishes to assure the Security Council of its resolve to continue the negotiations in full accordance with the principle of good faith and with respect for the interests of both sides.

Attaching key importance to the bilateral negotiations that have begun, the Federal Government of the Federal Republic of Yugoslavia has responded in a constructive way to the call made by the Security Council in its resolution 1183 (1998) of 15 July 1998 and the report of the Secretary-General on the United Nations Mission in Prevlaka (S/1998/939) and seeks to find a mutually acceptable solution for this disputed territorial issue through direct negotiations. I wish to assure you that, for its part, the Federal Republic of Yugoslavia will continue to fully cooperate with UNMOP and that it will render it support in the realization of its tasks.

Proceeding from the role and responsibility that the United Nations and UNMOP have in the preservation of the original security system of the United Nations in Prevlaka and of the good conditions for the evolvement of the negotiating process, the Federal Government of the Federal Republic of Yugoslavia requests once again and expects the Security Council to extend the UNMOP mandate beyond 15 January 1999 for an additional period of six months.

(Signed) Momir BULATOVIC

Annex II

Memorandum on the negotiating position of the Federal Republic of Yugoslavia in connection with the region of Prevlaka and the preservation of the security system of the United Nations

The Federal Republic of Yugoslavia does not intend to request that the disputed issue of Prevlaka be debated in the Security Council since, according to the agreement on the normalization of relations between the Federal Republic of Yugoslavia and the Republic of Croatia of 23 August 1996, that issue is the subject of negotiations between the two States, but it does consider itself obliged to inform the Security Council about the evolution of the negotiating process with the Republic of Croatia and the functioning of the security system of the United Nations in Prevlaka.

I

At the meetings of the negotiating teams of the Federal Republic of Yugoslavia and the Republic of Croatia at Zagreb on 16 September 1998, at Belgrade on 9 October 1998 and at Zagreb on 23 December 1998, the two delegations adopted rules of negotiating procedure and presented their negotiating positions and views on the disputed territorial issue of Prevlaka.

At the meeting at Zagreb on 23 December 1998, the delegation of the Federal Republic of Yugoslavia handed the Croatian side a note on the position of the Federal Republic of Yugoslavia on the delimitation line and the extension of the state border, with argumentation.

In addition to the argumentation referred to in the Yugoslav proposal on the delimitation line between the Federal Republic of Yugoslavia and the Republic of Croatia, the Federal Republic of Yugoslavia has, in responding to the positions of the Republic of Croatia, pointed out in the negotiations the following positions and arguments:

(a) The Federal Republic of Yugoslavia considers Prevlaka as its territory on the basis of the principle uti possidetis de facto, which is in full accordance with international law, the Charter of the United Nations and Organization for Security and Cooperation in Europe documents;

(b) The fact that no delimitation in the disputed region has ever been carried out in history proves that the claim of the Republic of Croatia that the Federal Republic of Yugoslavia wishes to change the "internationally recognized borders" is not true. The Federal Republic of Yugoslavia wishes only to establish an inter-state border with the Republic of Croatia in the southern sector on the basis of international law and the principle of equality because it is an obligation for the two States of international importance;

(c) The fact that the disputed issue of Prevlaka is considered in the Security Council under the agenda item "Situation in Croatia" is the result of inertia created due to the specific conditions in which the monitoring military

mission of the United Nations in Prevlaka was formed as an independent mission, so that that can be neither a legal nor political argument;

(d) There are no private owners of land in Cape Ostro, i.e., Prevlaka. The process of the sale of land was begun in 1858 and completed in 1918 by a series of legally absolutely valid purchase agreements.

II

There is no doubt that in addition to the responsibility of the two sides, the key role for the creation of a good negotiating atmosphere for the consistent and full preservation of the security system of the United Nations in Prevlaka in the zones designated by the United Nations is that of the United Nations and its military observers.

The Government of the Federal Republic of Yugoslavia wishes to draw the attention of the Security Council once again to the two incidents that took place in the Bay of Boka Kotorska on 12 August and 10 September 1998, in which the police of the Republic of Croatia detained, without authorization and unlawfully, two Yugoslav citizens, and opened fire on Yugoslav fishermen, threatening their lives and causing material damage in a gross violation of the territorial integrity and sovereignty of the Federal Republic of Yugoslavia. The Federal Government of the Federal Republic of Yugoslavia protests once again this unlawful behaviour of the Republic of Croatia.

The Government of the Federal Republic of Yugoslavia wishes once again to draw to the attention of the Security Council the fact that since the establishment of the security system of the United Nations in Prevlaka, the Republic of Croatia has constructed eight facilities for military purposes in the zone under the control of the United Nations, i.e., in the "Blue Zone", in which the presence of all persons, except of the members of the United Nations, is absolutely forbidden. The number of illegally constructed facilities for military purposes in the demilitarized "Yellow Zone" is far greater.

The Republic of Croatia has taken these unlawful acts despite the fact that the borders and regime of the Blue and Yellow zones have been defined and accepted by the Presidents of the Federal Republic of Yugoslavia and the Republic of Croatia (see S/24848 and S/24600). Measures taken in that connection by the Federal Republic of Yugoslavia have been taken only in response to the unlawful behaviour of the Republic of Croatia (see S/1996/180).

The said unlawful acts of the Republic of Croatia create a psychosis of fear among the neighbouring population in the Bay of Boka Kotorska, i.e., in Montenegro, and are not contributory to an auspicious negotiating atmosphere. The Federal Republic of Yugoslavia would appreciate it very much if the Security Council, proceeding from its own responsibility, would take measures to annul the results of the Croatian unlawful acts and to prevent further presence of any persons from the Republic of Croatia in the zone under the control of the United Nations, especially since the United Nations committed itself on 20 October 1992 to guaranteeing that the Republic of Croatia would not cross into the zone under the control of the United Nations (Blue Zone).

The Government of the Federal Republic of Yugoslavia points out once again that it calls most vigorously for the preservation of and absolute respect for the original security system of the United Nations in Prevlaka, established in 1992, the borders and regime of which were accepted by the Federal Republic of Yugoslavia and the Republic of Croatia.